

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION

**FILED**

October 25, 2023

CLERK, U.S. DISTRICT COURT  
WESTERN DISTRICT OF TEXAS

BY: Valeria Sandoval  
DEPUTY

UNITED STATES OF AMERICA,

v.

Alcapone Maximus Pena

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SA:23-MJ-01500

**GOVERNMENT'S MOTION FOR DETENTION HEARING, FOR DETENTION,  
AND FOR CONTINUANCE**

TO THE UNITED STATES MAGISTRATE JUDGE:

The Government, by and through the United States Attorney for the Western District of Texas and the undersigned Assistant United States Attorney, and pursuant to 18 U.S.C. § 3141, *et. seq.*, moves for pretrial detention of Defendant; for a detention hearing regarding the above-named Defendant; and for a continuance of said hearing. In support of these motions, the Government shows as follows:

**I. MOTION FOR DETENTION HEARING**

The Government requests that a hearing be set regarding detention pursuant to 18 U.S.C. § 3142(f), as this matter involves one of more of the following:

- ☐ an offense with a maximum sentence of life imprisonment or death
- ☐ a qualifying controlled substance offense with a maximum sentence of 10 years or more
- ☒ a felony offense that involves the possession or use of a firearm (including but not limited to felon in possession of a firearm), destructive device, or any other dangerous weapon
- ☐ a felony offense that is a crime of violence as defined under 18 U.S.C. § 3156(a)(4) to include a felony offense under 18 U.S.C. chapter 77, 109a, 110 or 117
- ☐ a felony offense that involves a minor victim
- ☐ an offense that involves failure to register as a sex offender under 18 U.S.C. § 2250
- ☒ a serious risk that the Defendant will flee
- ☒ a serious risk that the Defendant will obstruct or attempt to obstruct justice

## II. MOTION FOR DETENTION

*Grounds for detention.* The Government further requests that Defendant be detained pending trial in this case pursuant to 18 U.S.C. §§ 3141(a) and 3142(e), because no condition or combination of conditions will reasonably assure:

- ☒ Defendant's appearance as required
- ☒ the safety of any other person or the community

## III. MOTION FOR CONTINUANCE

*Three-day continuance.* Pursuant to 18 U.S.C. § 3142(f), the Government moves for a three-day continuance of the detention hearing in the matter.

## IV. NOTICE OF REBUTTABLE PRESUMPTION IN FAVOR OF DETENTION

*Presumption of detention.* In addition, the Government gives notice that 18 U.S.C. § 3142(e)(3) establishes a rebuttable presumption that no condition or combination of conditions will reasonably assure the appearance of the person as required and the safety of the community, because there is probable cause to believe that Defendant committed:

- ☐ a qualifying controlled substance offense with a maximum sentence of 10 years or more
- ☐ an offense under 18 U.S.C. § 924(c)
- ☐ an offense under 18 U.S.C. chapter 77 for which a maximum term of imprisonment of 20 years or more is prescribed
- ☐ a qualifying offense involving a minor victim

**V. NOTICE OF APPLICABILITY OF TEMPORARY DETENTION OF UP TO 10 DAYS**

*Temporary detention.* The Government gives notice, pursuant to 18 U.S.C. § 3142(d), that Defendant is subject to temporary detention of up to ten days, as Defendant may flee or pose a danger to any other person or the community, and Defendant was:

- ☐ at the time the offense was committed, on release pending trial for a felony offense
- ☐ at the time the offense was committed, on release pending imposition or execution of sentence, appeal of sentence or conviction, or completion of sentence for an offense
- ☐ at the time the offense was committed, on probation or parole for an offense
- ☐ and is not, a United States citizen or not admitted lawfully for permanent residence

Respectfully submitted,

JAIME ESPARZA  
United States Attorney

/S/

BY:

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UNITED STATES MAGISTRATE COURT  
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UNITED STATES OF AMERICA,

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SA:23-MJ-01500

**ORDER**

On this date the Court considered the Government's Motion to Detain Defendant, and the Court having reviewed said motion enters the following Orders:

**IT IS HEREBY ORDERED** that the Defendant be temporarily detained pending a hearing on the Government's Motion and until further Order of the Court, pursuant to 18 USC 3142(f).

**IT IS FURTHER ORDERED** that Defendant's bond hearing is set for \_\_\_\_\_ at \_\_\_\_\_ a.m. / p.m.

SIGNED AND ENTERED on: \_\_\_\_\_

\_\_\_\_\_  
HONORABLE HENRY J. BEMPORAD  
UNITED STATES MAGISTRATE JUDGE